

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

JEVON WOODS,

Defendant.

**8:21CV115**

**ORDER**

Plaintiff moved for assistance in serving trial witnesses, and for a continuance of his trial. Plaintiff states defense counsel did not provide Plaintiff with the addresses of the nonparty witnesses.

During the pretrial conference held on May 9, 2023, the court discussed the logistics of this trial with the parties. Plaintiff asked that it be held by Zoom, if possible. Defense counsel did not object. The trial was set to commence on July 25-26, 2023. (Filing No. 60). Upon further investigation, the court and prison facility were both able to accommodate a trial by Zoom on those dates, so an amended trial notice was entered setting the case for trial by Zoom. (Filing No. 61).

During the pretrial conference, Plaintiff stated he was unable to subpoena the nonparty witnesses because he did not know their addresses, and he did not know the first name of LPD Lieutenant Armstrong. Defense counsel agreed to make reasonable efforts to find the nonparty witness addresses and provide that information to both Plaintiff and the court.

Defense counsel provided information it found to the court, and on May 30, 2023, the court included that information in the pretrial conference order. (Filing No. 62). That order was mailed to Plaintiff by the court, and the mailing was not

returned as undeliverable. Plaintiff therefore presumably received information on how to subpoena Defendant and nonparty witnesses.

However, in response to Plaintiff's motion, (Filing No. 63), the trial subpoenas have now been served. Defense counsel has advised the undersigned magistrate judge that he served a subpoena on Nicholas Andrews, has accepted service on his client's behalf, and will accompany Andrews and Woods to appear at trial by Zoom. The court tracked down the identity of witness "Lt. (FNU) Armstrong, Badge #12517," who is actually Lt. Jon Armstrong, Badge #1257, and served a trial subpoena on that witness. (Filing No. 64).

The witnesses have been served, and the case was set for trial two months ago. There is no basis for continuing the trial.

Accordingly,

IT IS ORDERED:

- 1) Plaintiff's motion to continue trial and for assistance with service of subpoenas, (Filing No. 63), is denied as moot.
- 2) This case remains set to commence before Judge Joseph F. Bataillon by Zoom on July 25, 2023, at 1:00 P.M., to reconvene for completion, if necessary, on July 26, 2023, at 1:00 P.M.
- 3) The clerk shall mail a copy of this order to Plaintiff at his address of record.

Dated July 10, 2023.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge